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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE PATENT EXAMINING OPERATION

Applicant:

Jude S. Sauer

Serial No.:

10/772,185

Confirmation No: 4686

Filed:

02/04/2004

For:

INSTRUMENT FOR GUIDING THE SURGICAL CUTTING OF

TISSUE AND METHOD OF USE

Examiner:

Victor X. Nguyen

Art Unit: 3734

Atty. Docket: LS-006CV

## RESPONSE TO THE OFFICE ACTION DATED JANUARY 27, 2010

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

Claims 1-10, 15-18 and 20-31 were rejected as being anticipated by U.S. Patent No. 5,817,013 (Ginn et al.) "Ginn". This rejection is not well taken. First, Claims 4, 5, 8, 9, 20, 22, 24, and 29 describe a blade shuttle, but the Examiner states on page 5 of the 1/27/10 Office Action that Ginn has no blade shuttle. Thus, such claims cannot be anticipated by Ginn.

Second, Claim 1 describes many elements that are clearly lacking in Ginn. Claim 1 describes an instrument for cutting tissue guided along a guide wire having a shaft extending to a distal end with an opening to outside of the instrument, a guide tube with an outer tubular surface where the guide tube extends from such shaft through that shaft opening, a path through at least an opening extending through guide tube for extending a guide wire, and means for longitudinally cutting tissue guided along the outer tubular surface of the guide tube through the shaft's opening. Such means has a blade extendable and retractable through the shaft's opening to cut tissue when present outside of the instrument.

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Kenneth J. LuKacher

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